

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the Appeal of }
LAYMEYER, RENNER and SIBLEY } DECISION AND ORDER

This is an appeal from the Decision of Valley County Superintendent of Schools, ALFREDA S. DRABBS, rendered December 19, 1980, which upheld the Decision of the Board of Trustees for School District No. 13 to continue with a half day Kindergarten program.

This appeal arises because of the decision of the local Board of Trustees to continue a **half** day Kindergarten program after ~~numerous~~ hearings at which the appellants or ~~some~~ of them were present and after the submission of evidence and testimony by others to the Board. The decision of the Board of Trustees for School District No. 13 was appealed to the County Superintendent who rendered a decision affirming the ruling of the Board of Trustees.

This matter was noticed for submission to all parties and the ~~time~~ for submission of documents having expired, it appears that the parties have submitted all of their arguments and reasons related to this appeal.

It appears from the documents submitted by the appellants that they are 'dissatisfied with the decision of the Board of Trustees based on the sufficiency of the investigation and evidence available to the Board at the time its decision was made. The Trustees rely on Montana law which establishes the rule of the Board of Trustees as well as certain policy statements from the Board of Public Education and the State Superintendent of Public Instruction.

In view of this dispute over the facts submitted to the Trustees, I feel that the issue raised herein deals with the sufficiency of the facts available to the Trustees, upon which their decision is based. From the transcript it appears that several public meetings or hearings were held

on the issue of half day Kindergarten versus full day Kindergarten and that there was significant public involvement both at the hearings and meetings as well as indirect involvement through petitions which were also submitted to the Board of Trustees.

Article X, §8 of Montana's 1972 Consitution provides:

"The supervision and control of schools in each School District shall be vested in a Board of Trustees, to be elected as provided by law."

The Montana Supreme Court has examined this provision in School District No. 12, Phillips County vs. Hughes, 552 P. 2d. 328, 170 Mont. 267 (1976).

There the Supreme Court recognized and approved the Constitutional intent that local autonomy should be preserved in school matters. There are of course limits to this local autonomy and avenues of appeal such as this one, to protect against abuses of power or excesses of state law.

I note that no such matter is alleged by the appellants, nor is one evident in the transcript of the hearing before the County Superintendent. I also note 520-3-323 M.C.A. which provides:

1. The Trustees of each district shall prescribe and enforce policies for the government of the district. In order to provide a comprehensive system of governing the district, the trustees shall:
 - a) adopt the policies required by this title; and
 - b) adopt policies to implement or administer the requirements of the general law, this title, the policies of the board of public education, and the rules of the Superintendent of Public Instruction.

Further, Montana's school laws in §20-1-301 M.C.A. and §20-1-302 M.C.A. establishes minimum school education standards for Montana schools, including a provision that "a school day of public instruction shall be at least two hours for Kindergartens.. ." Variance procedures are granted to the Superintendent of Public Instruction who is to follow the policies of the Board of Public Education. Our Board of Public Education has adopted a Policy Statement on Kindergarten variances, dated March 12, 1974, which recognizes "the normal half day attendance pattern for Kindergarten classes"

and encourages "local districts to design and propose Kindergarten schedules suited to their particular situations."

To be sure, the documents and testimony submitted by the appellants reflect a sincere effort to present the best facts to their Board and County Superintendent. Their letter on this appeal also reflects a significant public sentiment for an all day Kindergarten program. By this decision I am not discouraging interested citizens from presenting the most complete set of facts to their local Board of Trustees and District and County Superintendent. I am also of the opinion that both all day and half day Kindergarten programs have their place within Montana's educational framework and that I am sure that there is possibility of change at the Nashua Schools in future years.

However, my review of the decision of the County Superintendent as well as the reasons for the decision testified to by the members of the Board of Trustees at that hearing indicate to me that the essentials of due process were followed below and that an adequate and legal basis for a decision by the Board of Trustees existed for them to make their decision concerning the type and length of program to be offered at the Kindergarten in Nashua Schools. Since there appears to be no legal basis for overturning the decision of the County Superintendent, I will not substitute my decision for that of the County Superintendent and Trustees who had the opportunity to view and review the evidence first-hand and listen to the witnesses.

The decision of the County Superintendent is affirmed.

DATED JUNE 11, 1981.